

1 F5keschc

Romano - cross

2 BY MR. KAPUR:

3 Q. Mr. Romano, you remember that I did provide all backup for  
4 taxes, me or the office manager, or in definition, it was --  
5 all the backup was provided to you, except in the later years,  
6 where possibly we only had expenses and no revenue; just saying  
7 in one of the later years, it was possible, although I remember  
I did --

8 THE COURT: Sir, Mr. --

9 MR. KAPUR: Sorry, sir.

10 THE COURT: Mr. Kapur, you need to not describe what  
11 you remember. You need to ask questions to the witness. So  
12 I'm happy to have you take it nice and slow. Just ask  
13 item-by-item questions to the witness.

14 Thank you. Go ahead.

15 MR. KAPUR: Yes, your Honor.

16 BY MR. KAPUR:

17 Q. So, Mr. Romano, you remember in one of the later years,  
18 where the form probably just had expenses, you don't remember  
19 as much backup?

20 A. I don't recall the exact years, Mr. Kapur, as far as what  
21 years were provided or not. I do recall that in the earlier  
22 years all of the backup was provided. I have copies of all  
23 that. In the later years I just -- I don't know the exact  
24 years. I would tend to say one or two years, there was no  
25 backup provided. Correct.

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Romano - cross

1 Q. Understood. Mr. Romano, if I asked you for this reference  
2 letter, which was back in August of 2010, and I detailed in  
3 this letter that was sent very late at night, it was -- go back  
4 to Exhibit 9 -- it was sometimes we used to work until  
5 2:00 a.m. It was sent at 12:24 a.m., quite late at night. And  
6 if I didn't generalize in this e-mail and I was specific in  
7 this e-mail and said, you know, this was for my brother's  
8 private lending relationship, or I need a reference letter for  
9 a client that knows my brother, would that have changed your  
10 mind in terms of providing me this letter?

11 A. I was providing a letter to you as a character witness for  
12 you.

13 Q. Correct.

14 A. So I did not have any issue -- if it was for your brother,  
15 I would have had to have asked more --

16 Q. No. You have a misunderstanding.

17 THE COURT: Mr. Kapur, please let the witness finish.  
18 You can always follow up, but our court reporter works very  
19 hard and cannot type what two people are saying at the same  
20 time. You need to let the witness finish.

21 Please finish.

22 A. Since it was for you for number 12, I did not have a  
23 problem with that in putting that down. If it was something  
24 for your brother, I did not know your brother. I never met  
25 your brother at that point. I could not have given your

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1 F5keschc Romano - cross  
2 brother any sort of a letter.  
3 Q. Understood. But as long as it was for me and -- but the  
4 purpose of the letter was to set up a structure for a third  
5 party, you had no issue, you would have no issue of providing  
me the letter back then?  
6 A. I didn't have a problem.  
7 MR. ROESSNER: I'm sorry. I'm not sure I understand  
8 that question.  
9 THE COURT: I think I understand it well enough.  
10 Witness, do you understand the question?  
11 THE WITNESS: Did I have a problem in issuing this?  
12 If I would have had an issue, I would not have signed it or  
13 sent it. I sent it. I had no issue. There was no personal  
14 liability or professional liability in me signing this.  
15 Q. Thank you, Mr. Romano.  
16 Just a general question Mr. Romano. In the rush of  
17 the day or -- I know you're a busy individual. At the end of a  
18 long day, have you ever sent a general e-mail with an  
19 inadvertent inaccuracy ever in your life?  
20 MR. ROESSNER: Objection, again, to that question.  
21 I'm not sure how that is germane --  
22 THE COURT: Have you ever sent an inaccurate e-mail at  
23 the end of a long day?  
24 THE WITNESS: Sent it during the middle of the day.  
25 Of course. Absolutely. Yes.

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1 F5keschc

Romano - cross

2 Q. Thank you. And I think I asked you this question already,  
2 Mr. Romano --

3 THE COURT: Speak a little more slowly and distinct  
4 and loudly, so that everyone can make out what you're saying,  
5 please.

6 MR. KAPUR: Yes, your Honor.

7 Q. I think we covered this, Mr. Romano, but I'm just going to  
8 ask you just in case I did not cover it. Did I ask you  
9 anywhere in the e-mail to provide my personal tax returns to  
10 this law firm?

11 A. No, sir.

12 THE COURT: What law firm?

13 MR. KAPUR: The law firm of Mossack Fonseca.

14 THE COURT: What document are you referring to,  
15 Mr. Kapur?

16 MR. KAPUR: I'm referring to the e-mail. I think it  
17 was Exhibit 9. It's Exhibit 9, an e-mail on Thursday,  
18 August 19th, or even outside the scope of this e-mail, if  
19 Mr. Romano remembers, if I ever asked him for my personal tax  
20 returns to ever be provided to the law firm that was conducting  
21 KYC.

22 A. No, sir.

23 Q. Just moving to Ms. Rai's tax returns. Can you tell me,  
24 Mr. Romano, where on the tax returns -- let's just move to  
25 Exhibit 23.

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2 Exhibit 23 I see Ms. Rai's income to be 27,000 for the  
3 year 2007?  
4 A. Yes, sir.  
5 Q. And where in the tax returns would her savings over the  
6 past 40 years of her work go?  
7 A. I do not know.  
8 Q. So her savings would not be mentioned on this tax return?  
9 A. Only the interest income from the savings account would go  
10 on a tax return.  
11 Q. But the amount of money she had in a savings account over  
12 the years would not be on this tax return?  
13 A. No, sir.  
14 Q. And I noticed in 2010, Ms. Rai's income was negative?  
15 THE COURT: Are you talking about Exhibit 26?  
16 MR. KAPUR: Exhibit --  
17 THE COURT: Is that what you want the witness to look  
18 at?  
19 MR. KAPUR: Exhibit 26, or Exhibit 27 -- sorry.  
20 Exhibit 27.  
21 THE COURT: Which one do you want him to look at?  
22 MR. KAPUR: 27.  
23 THE COURT: Go ahead. Please look at Exhibit 27.  
24 BY MR. KAPUR:  
25 Q. Exhibit 27, Ms. Rai's income is \$422 from business income?  
A. Yes, sir.

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Romano - cross

1 Q. Is that a net amount for a business? Is that a business  
2 net?  
3 A. Yes, sir.  
4 Q. Net income amount?  
5 A. Yes, sir.  
6 Q. And the 8,619 is a carryover of her business from the prior  
7 year?  
8 A. Yes, sir, from Exhibit 26.

9 MR. KAPUR: No further questions. Thank you,  
10 Mr. Romano.

11 THE COURT: No further questions, you said?

12 MR. KAPUR: No.

13 THE COURT: Okay. Mr. Roessner, do you have any  
14 further, any redirect?

15 MR. ROESSNER: No, no redirect.

16 THE COURT: Mr. Solotaroff?

17 MR. SOLOTAROFF: Couple questions.

18 REDIRECT EXAMINATION

19 BY MR. SOLOTAROFF:

20 Q. Mr. Romano, with respect to Exhibits 9 and 12, the e-mail  
21 and then the letter, Mr. Kapur didn't tell you that he was  
22 seeking a reference to assist a third-party client in creating  
23 a relationship with MossFon trust, did he?

24 A. No, sir.

25 Q. And if he had told you that he was -- had he told you that

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2 he wanted to use your letter to set up an account that would  
3 have belonged to a third party at MossFon, would you have  
4 agreed to have submitted a letter?

5 A. I would have had -- I would had to have checked with  
counsel prior.

6 Q. I know you're not a fraud examiner, but you are familiar  
7 with anti -- in a general way with antimoney laundering laws?

8 A. Yes, sir.

9 Q. And are you familiar with the idea of "know your customer"?

10 A. Yes, sir.

11 Q. And would you have willingly assisted anyone in evading  
12 antimoney laundering or "know your customer" restrictions?

13 A. Absolutely not.

14 MR. SOLOTAROFF: Nothing further, Judge.

15 THE COURT: Okay. Let me ask you this: Did you  
16 notify Mr. Kapur when you were preparing his tax returns of the  
17 need for him to disclose to you any gifts he had made?

18 THE WITNESS: Gifts?

19 THE COURT: Gifts that might have triggered a gift tax  
20 return?

21 THE WITNESS: Yes.

22 THE COURT: In other words, was he on notice that he  
23 had to inform you of any gifts in excess -- in a given year in  
24 excess of the annual gift exclusion?

25 THE WITNESS: Yes. That's part of our checklist we go  
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1 F5keschc Romano - redirect  
2 through with clients.  
3 THE COURT: You gave him the checklist that solicited  
4 that information?  
5 THE WITNESS: We go through that verbally with clients  
6 or in an e-mail. In this case back then it probably would have  
7 been a phone call.  
8 THE COURT: You have no doubt, though, that somehow  
9 you communicated that to Mr. Kapur?  
10 THE WITNESS: No doubt. In every single year, I don't  
11 know 100 percent, your Honor. I mean, that would have been  
12 conveyed in the earlier years. In the later years, I don't  
13 know that that was 100 percent conveyed.  
14 THE COURT: Did Mr. Kapur to your memory ever notify  
15 you of any gift he had made to Ms. Rai?  
16 THE WITNESS: Absolutely no.  
17 THE COURT: What about to anyone else?  
18 THE WITNESS: Absolutely not.  
19 THE COURT: Thank you.  
20 Any further questions from anyone?  
21 MR. ROESSNER: No, your Honor.  
22 MR. SOLOTAROFF: No, your Honor.  
23 MR. KAPUR: No, your Honor.  
24 THE COURT: Okay. Thank you, Mr. Romano. Your  
25 testimony is complete. You may step down.  
(Witness excused)

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Romano - redirect

1 THE COURT: Mr. Roessner, am I correct that your next  
2 witness is Mr. Kapur?

3 MR. ROESSNER: As an adverse witness, yes, your Honor.

4 THE COURT: Why don't we take a ten-minute  
5 mid-afternoon recess, and we'll resume then.

6 MR. ROESSNER: Thank you, your Honor.

7 (Recess)

8 THE COURT: We'll resume the hearing now.

9 Mr. Roessner, please call your next witness.

10 MR. ROESSNER: The commission would like to call  
11 Mr. Kapur as an adverse witness.

12 THE COURT: Yes. Mr. Kapur, please take the stand.

13 CHETAN KAPUR,

14 called as a witness by the Government,  
15 having been duly sworn, testified as follows:

16 THE COURT: Okay. Welcome to the witness stand,  
17 Mr. Kapur. I'll ask you, please, just to keep your voice up  
18 and speak slowly. And please respond distinctly to the  
19 question that has been put to you. After Mr. Roessner, and if  
20 he wishes, Mr. Solotaroff put questions to you, afterwards  
21 you'll have an opportunity, in effect, to cross-examine  
22 yourself, to address any topics that you believe haven't been  
23 fully covered during the direct examination. Okay?

24 But I'll remind you that you're under oath. And like  
25 all witnesses under oath, your testimony is subject to

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1 F5keschc Romano - redirect  
2 penalties for perjury. So please be sure that what you're  
3 testifying to is truthful. Do you understand?

4 THE WITNESS: I understand, your Honor. Thank you.

5 THE COURT: Counsel, you may inquire.

6 DIRECT EXAMINATION

7 BY MR. ROESSNER:

8 Q. Good afternoon, Mr. Kapur.

9 A. Good afternoon, Mr. Roessner.

10 Q. Now, your family pays your monthly expenses, correct?

11 A. That's correct.

12 Q. They pay the vendors directly, right?

13 A. That's correct, Mr. Roessner.

14 Q. And in Exhibit 5 that you submitted today, it's an  
affidavit from your brother, Kabir Kapur?

15 A. Excuse me. I'm sorry. I'm going to get my binder.

16 THE COURT: One moment. I'm going to ask each of you,  
17 but particularly you, Mr. Kapur, to keep your voice up. Do not  
18 mumble. Wait for Mr. Roessner to finish. It's hard for me to  
19 follow what you're saying.

20 Let's begin the question again, Mr. Roessner.

21 MR. ROESSNER: Your Honor, can I approach the witness  
22 and provide him with his exhibits.

23 THE COURT: Yes.

24 MR. ROESSNER: Because I'm going to ask some  
25 questions.

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2 Q. If you could turn to Exhibit 5.  
3 THE COURT: This is Exhibit 5 from Mr. -- this is  
4 Defense Exhibit 5, Kapur Exhibit 5?  
5 MR. ROESSNER: Yes, your Honor.  
6 THE COURT: So please turn to Kapur Exhibit 5.  
7 THE WITNESS: Exhibit 5?  
8 BY MR. ROESSNER:  
9 Q. Yes, Mr. Kapur.  
10 And your brother loaned you \$47,080 for the last six  
11 months of 2014?  
12 A. Yes. During the last six months of 2014, Kabir Kapur lent  
13 me 46-- 7,080 dollars.  
14 Q. They were for your monthly expenses?  
15 A. Correct. Those were for my monthly expenses, correct.  
16 Q. It's approximately \$8,000 a month, are your monthly  
17 expenses?  
18 A. I don't know if it divides into that, but that was the  
19 amount that he provided over that period for living expenses.  
20 Q. Now, your family has not offered to pay the judgment  
21 entered against you in this matter, correct?  
22 A. No. They themselves are having extreme difficulty in terms  
23 of paying my personal expenses. And so they stopped paying my  
24 legal expenses towards the end of 2013 and thereafter. They  
25 just simply have been refusing to pay any legal expenses  
because they're financially unable to support both my legal and

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1 F5keschc Kapur - direct  
2 personal expenses. I believe that was detailed in Exhibit 3,  
3 in the affidavit of Manju Kapur, where she specified, you know,  
4 why they had been refusing me moneys for legal expenses.

5 Q. And your family has the view that the judgment entered  
against you is unfair?

6 A. I don't believe they have a view either way. They just --  
7 they just know as a matter of fact that it's a default  
8 judgment.

9 Q. Now, Mr. Kapur, do you recall an engagement ring that you  
10 purchased from Bianca jewelers?

11 A. Yes. Many, many years ago, there was a purchase of an  
12 engagement ring. Correct.

13 Q. Mr. Kapur, approximately \$92,000?

14 A. Approximately. I believe it was somewhere at that range,  
15 correct.

16 Q. And you --

17 THE COURT: Please keep your voice up. Thank you.

18 THE WITNESS: Sorry, your Honor.

19 Q. And you received this ring back, correct?

20 A. It was provided to my mother.

21 Q. And did you ever receive money --

22 THE COURT: Sorry. It was provided by whom to your  
23 mother?

24 THE WITNESS: If I recollect correctly, your Honor, it  
25 was provided by the girl I was going to get engaged to back to

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1 F5keschc Kapur - direct  
2 my mother.  
3 THE COURT: Sorry. Let's walk through the facts here.  
4 What's the name of the woman you were engaged to?  
5 THE WITNESS: Georgianna.  
6 THE COURT: When were you engaged to Georgianna?  
7 THE WITNESS: It was back in end of 2008.  
8 THE COURT: And when did you and she call off your  
9 engagement?  
10 THE WITNESS: I believe it was at some point in 2009.  
11 THE COURT: What were the circumstances?  
12 THE WITNESS: We just mutually agreed that it wasn't a  
13 good fit, and we decided not to get engaged.  
14 THE COURT: What happened to the engagement ring when  
15 you called off the engagement?  
16 THE WITNESS: If I'm recollecting correctly, your  
17 Honor, she provided it back to my mother.  
18 THE COURT: Had your mother given her the engagement  
19 ring?  
20 THE WITNESS: Had my mother -- no, your Honor.  
21 THE COURT: You were the one who was engaged to  
22 Georgianna?  
23 THE WITNESS: That's correct, your Honor. Yes.  
24 THE COURT: Who paid for the engagement ring?  
25 THE WITNESS: I did, your Honor.  
THE COURT: Thank you. Go ahead, counsel.

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Kapur - direct

1 BY MR. ROESSNER:

2 Q. Did your mother give you any money for having the ring  
3 turned over to her?

4 A. I'm sorry. Could you repeat the question.

5 Q. Did your mother provide you with any of the proceeds from  
6 the ring? What did your mother do with the ring?

7 A. Right. She told me she sold the ring.

8 Q. And did she give you the proceeds from the ring?

9 A. No, she did not.

10 Q. Have you asked her for the proceeds of the ring?

11 A. I have not asked her for the proceeds of the ring, no.

12 THE COURT: Why, if I may, why did Georgianna give the  
13 ring to your mother? Did you tell her to give the ring to your  
14 mother?

15 THE WITNESS: No, your Honor. It's just in --  
16 relations weren't good at that time.

17 THE COURT: Between who and who?

18 THE WITNESS: Between me and Georgianna. That's why,  
19 you know, we called off the engagement, because relations  
20 weren't good. And she wanted to -- she felt it was the right  
21 thing to do, is give back the ring.

22 THE COURT: When you say give back the ring -- sir,  
23 I'm speaking. The ring came from you, not your mother,  
24 correct? The person who gave the ring to Georgianna was you,  
25 correct?

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Kapur - direct

2 THE WITNESS: Correct.

3 THE COURT: And you're saying Georgianna on her own,  
4 without consulting with you, decided to give the ring to your  
mother? Is that your testimony?

5 THE WITNESS: Yes. Yes, your Honor, that's how I  
6 recollect it.

7 THE COURT: What's Georgianna's last name?

8 THE WITNESS: Ene, E-N-E.

9 THE COURT: Where does she live?

10 THE WITNESS: Currently, I don't know, your Honor.

11 THE COURT: What city did she live in when you were  
12 engaged?

13 THE WITNESS: She lived in New York.

14 THE COURT: And your testimony is that it was her  
15 suggestion, it was her idea, not yours, that she give the ring  
16 to your mother? I think that was your testimony, correct?

17 THE WITNESS: Correct, your Honor.

18 THE COURT: And you, not your mother, had paid for the  
19 ring, correct?

20 THE WITNESS: That's correct, your Honor.

21 THE COURT: And after that point did you ever ask your  
22 mother for the proceeds of the ring, which had been purchased  
23 for \$92,000?

24 THE WITNESS: No, your Honor.

25 THE COURT: Go ahead, counsel.

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Kapur - direct

1 And do you know what became of the proceeds when your  
2 mother sold the ring?

3 THE WITNESS: No, your Honor.

4 THE COURT: Thank you.

5 BY MR. ROESSNER:

6 Q. Mr. Kapur, I want to turn to a matter briefly. During the  
7 litigation of this case the SEC attempted to depose you, and  
8 there was a letter submitted to the Court, a doctor's note,  
9 indicating that you were ill and couldn't attend. Do you  
10 recall that?

11 A. I do, Mr. Roessner, yes.

12 Q. And the note was -- the doctor's note was false?

13 A. Correct.

14 Q. And the person who procured that note from an Indian doctor  
15 was Kabir Kapur?

16 A. I believe so, yes.

17 THE COURT: Mr. Roessner, could you just put a date on  
18 that?

19 MR. ROESSNER: I'm sorry, your Honor. Yes. The  
20 letter was sent to the Court on April 16, 2012. And the  
21 doctor's name is Dr. Raj, R-A-J.

22 THE COURT: Do you have an exhibit?

23 MR. ROESSNER: I have it here. I can submit it to the  
24 Court for identification.

25 THE COURT: Please do.

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F5keschc

Kapur - direct

1 MR. ROESSNER: If I might approach.  
2 THE COURT: Mr. Roessner, would you kindly attempt to  
3 authenticate the document.

4 BY MR. ROESSNER:

5 Q. Mr. Kapur, the letter that you've just been handed is  
6 signed by your attorney, Mr. Drohan?

7 THE COURT: Ms. Drohan.

8 MR. ROESSNER: Ms. Drohan. I'm sorry, your Honor.  
9 A. It has an electronic signature mentioning her name, yes.

10 Q. And Ms. Drohan was your attorney at that time?

11 A. I believe so, yes.

12 Q. And the second page of this document is a note. Can you  
13 state who the note is from?

14 A. It seems to be from a Dr. Raj. Dr. Abisha Raj.

15 Q. Mr. Kapur, if it's possible, can you move the mic a little.  
16 I'm having a little difficulty hearing back here. I'm sorry.

17 THE COURT: Let's just back up on this. I'm confused,  
18 Mr. Roessner, about a few things.

19 To begin with, I think we need to mark this as an  
20 exhibit before we go any further. What exhibit number? Is  
21 this a successive exhibit number in the SEC series?

22 MR. ROESSNER: It would be Exhibit 31 for the  
23 commission.

24 THE COURT: I'm going to mark this as SEC Exhibit 31.  
25 Now, you prefaced this by saying that Mr. Kapur had

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1 F5keshc Kapur - direct  
2 failed to show up for an SEC deposition by claiming to be ill,  
3 but the correspondence you've put in front of me in Exhibit 31  
4 is correspondence that I recognize from the separate civil  
5 litigation. And this letter, as I recall, was submitted to  
6 explain why Mr. Kapur would be unable to attend the civil trial  
7 in the Schwarz case. I'm a little puzzled as to the  
relationship between your question and the document.

8 MR. ROESSNER: I'm sorry, your Honor. I might be  
9 confused. My understanding was that this was submitted in the  
10 commission's matter, and I might be wrong.

11 THE COURT: Look at the exhibit that you handed me.

12 MR. ROESSNER: Your Honor, I had misspoken. This is  
13 related to Mr. Schwarz's letter, not the commission's case.  
14 But the fact of the matter remains, the doctor's note was  
15 procured by Mr. Kabir.

16 THE COURT: Let's establish that as to how the  
17 doctor's note came to be.

18 MR. ROESSNER: I'm sorry, your Honor.

19 THE COURT: No worries. Go ahead.

20 BY MR. ROESSNER:

21 Q. Mr. Kapur, if you can look to the second page. This note,  
22 who procured this note?

23 A. I believe it was -- I had requested my brother to get a  
24 doctor's note.

25 Q. And which brother?

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